Claim 236 (previously added): The composition of claim 223, wherein the polypeptide is encoded by the nucleic acid sequence contained in plasmid pEJG18 contained in *E. coli* NRRL B-21677.

Claims 237-240 (cancelled).

REMARKS

Claims 237-240 have been canceled. Claims 207-236 are pending in the present application.

It is respectfully submitted that the present amendment presents no new issues or new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

I. The Rejection of Claims 237-240 under 35 U.S.C. § 112, First Paragraph

Claims 237-240 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Applicant has cancelled claims 237-240 rendering the rejection moot.

II. The Rejection of Claims 237-240 under 35 U.S.C. § 112, First Paragraph

Claims 237-240 stand rejected under 35 U.S.C. § 112, first paragraph, because the specification, while being enabling for the aminopeptidase of SEQ ID NO:2, does not reasonably provide enablement for the generic recitation of any polypeptide providing aminopeptidase activity with the noted physiochemical properties noted in a)-d).

Applicant has cancelled claims 237-240 rendering the rejection moot.

III. The Rejection of Claim 222 under 35 U.S.C. § 102

Claim 222 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Kundu *et al.* (*Applied Microbiology*, April 1970, p. 598-603). The Office Action states:

> Claim 222 is directed to a method for producing the polypeptide of claim 207 comprising cultivating a microbial strain, which in its wild type form produces the polypeptide in a medium and under conditions suitable for the production of the polypeptide and recovering the polypeptide from the medium. Kundu teach cultivation of *Aspergillus oryzae* that is disclosed as the wild type organism producing the peptide of claim 207. The culture conditions are inherently effective for the production of the polypeptide as the conditions are suitable for the growth and propagation of the organism. Thus, the growth conditions are considered to be a medium and under conditions suitable for the production of the polypeptide produced by the organism, absent convincing factual evidence to the contrary. The polypeptide is considered to be suitably produced and recovered from the media in that the reference teaches the preparation of culture

protein isolates from broth obtained by submerged fermentation, see in particular Materials and Methods, pp. 598, columns 1-2. The peptide is thus obtained from the culture isolates. Thus, the reference teachings anticipate the claimed invention.

This rejection is respectfully traversed.

Under the standard required for anticipation under 35 U.S.C. § 102, the cited prior art reference is required to disclose every element of the claimed invention. *Lewmar Marine Inc. v. Barient Inc.*, 3 USPQ2d 1766 (Fed. Cir. 1987).

Kundu *et al.* disclose the production of amylase in liquid culture by a strain of *Aspergillus oryzae*. However, Kundu *et al.* do not disclose every element of the invention claimed herein. Kundu *et al.* do not disclose the production of a secreted polypeptide having aminopeptidase activity, as claimed herein.

For the foregoing reason, Applicants submit that this rejection under 35 U.S.C. § 102 has been overcome. Applicants respectfully request reconsideration and withdrawal of the rejection.

IV. Conclusion

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

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